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January 15, 2015

Clerk of the Court  
United States Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, CA 94119-3939

RE: *Johnny Baca v. Derral Adams*  
Ninth Circuit Case No. 13-56132

Dear Clerk of the Court:

This case was argued on January 8, 2015, at 9:30 a.m. in Pasadena, before the Honorable Judges Kozinski, Wardlaw, and Fletcher. During the course of argument, the Court directed me to confer with the Attorney General of California regarding the circumstances of the case, which involved false testimony, and to report the concerns expressed by the Court during the course of the argument. Ultimately, the Court invited the Attorney General to consider whether this matter might be resolved in some way short of a decision of the Court on this appeal. I have passed the relevant information up to the California Attorney General. However, the question of resolution is still undergoing careful examination.

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The Court, clearly recognizing that the issues were complex and might take some period of time to resolve, directed me to report within a week, but also allowed that I could ask for some additional time for this matter to be worked on, should that be necessary. This letter is sent both to provide a status report and to make that request for additional time. I have discussed this request with counsel for Appellant Baca, Mr. Patrick Hennesey, Jr., and he has authorized me to state that he has no objection.

Since the argument, I provided a report of the case, the oral argument, and the Court's clearly-expressed concerns to the California Attorney General. There have been extensive discussions of this matter at the highest level of our office. In addition, my superiors and I have engaged in discussions with the office of the prosecuting authority in this matter, the Riverside County District Attorney, including a lengthy telephone conversation I had with the new Chief Assistant District Attorney, John Aki.

As I related to Mr. Hennesey in our telephone conversation, the question of resolution of this matter is being carefully considered and discussed. My office is now waiting to learn the official position of the Riverside District Attorney. Mr. Aki has asked for some additional time to consider the question of possible resolution.

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Accordingly, I ask the Court for an additional two weeks to permit adequate deliberation and discussion between both the California Attorney General and the Riverside County District Attorney, as well as necessary additional discussion with Mr. Hennessey regarding any potential agreement. I believe that the possibility of resolution remains open and that this additional time can be useful in that regard.

In the meantime, I will notify the Court of any intervening important decisions immediately. If necessary, I will advise the Court of the status of this matter not later than two weeks from today.

Sincerely,

S/ KEVIN VIENNA  
KEVIN VIENNA  
Supervising Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

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9th Circuit Case Number(s)

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

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### CERTIFICATE OF SERVICE

#### When All Case Participants are Registered for the Appellate CM/ECF System

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I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)